

*MACOMB COUNTY HEALTH DEPARTMENT  
REGULATIONS  
FOR  
MONETARY CIVIL PENALTIES/CITATIONS*

*RELATING TO  
ENVIRONMENTAL HEALTH REGULATIONS FOR THE  
PROTECTION OF FOOD, WATER, LAND AND AIR*



# MACOMB COUNTY HEALTH DEPARTMENT REGULATIONS FOR

## MONETARY CIVIL PENALTIES/CITATIONS

### ARTICLE I. DEFINITIONS

- A. “Abatement Date” means the date on or before which a person or entity must abate the violation noted in a citation.
- B. “Days” means calendar days.
- C. “Director of Environmental Health” means the Director of the Environmental Health Services Division of the Macomb County Health Department.
- D. “Health Department” means the Macomb County Health Department.
- E. “Health Department Representative” means an individual designated by the Health Officer to issue citations under these regulations.
- F. “Health Officer” means the director of the Macomb County Health Department and/or his authorized representatives.
- G. “Local Governing Entity” means the Macomb County Board of Commissioners.
- H. “Public Health Code” means Act No. 368 of the Public Acts of 1978, as amended, being section 333.1101 et seq. of the Michigan Compiled Laws.

### ARTICLE II. AUTHORITY, JURISDICTION AND ADMINISTRATION

#### A. **Purpose:**

These regulations shall govern the assessment and issuance of monetary civil penalties for certain violations of the Public Health Code, P.A. 368 of 1978, as amended, or rules promulgated thereunder and regulations or orders of the Macomb County Health Department, as specified herein.

#### B. **Authority:**

These regulations are issued by virtue of the power vested in the Macomb County Health Department by Sections 2435, 2441, 2442, 2461, 2462 and 2463 of P.A. 368 of 1978, as amended, being Sections 333.2435, 333.2441, 333.2442, 333.2461, 333.2462 and 333.2463 of the Michigan Compiled Laws.

**C. Jurisdiction:**

The Macomb County Health Department and its representatives as specified herein, shall have jurisdiction throughout Macomb County including all cities, villages and townships, in the administration and enforcement of these regulations and amendments hereafter adopted, unless otherwise specifically stated.

**D. Enforcement:**

The Health Officer and designees are authorized department representatives for the purpose of issuing monetary civil penalties and issuing citations pursuant to Sections 2461 and 2462, P.A. 368 of 1978.

**E. Abatement of Nuisances:**

Nothing stated in these regulations shall be construed to limit the power of the Health Officer or designee to order the immediate and complete abatement of a nuisance or a condition which in the opinion of the Health Officer or designee may become a hazard to the public health. Nothing stated in these regulations shall be construed to limit any power vested in the Macomb County Health Department by the Public Health Code or any other applicable statute, rule, order, ordinance, regulation, or other law.

**F. Validity:**

If any section, subsection, clause or phrase of these regulations is for any reason unconstitutional or invalid, it is hereby provided that the remaining portions of these regulations shall not be affected.

**G. Other Laws and Regulations:**

These regulations are supplemental to the rules and regulations duly promulgated by the Michigan Department of Public Health, to the laws of the State of Michigan, and to other local ordinances and regulations.

## **ARTICLE III. SCHEDULE OF MONETARY CIVIL PENALTIES**

The Macomb County Board of Commissioners may adopt a schedule for monetary civil penalties to be assessed for violations of these Regulations as provided in Sections 2461 and 2462 of the Public Health Code.

## ARTICLE IV. CITATIONS

### **A. Issuance:**

If a Macomb County Health Department representative as authorized in Article II-D believes that a person has violated the Michigan Public Health Code or a rule promulgated, a regulation adopted, or an order issued pursuant to that code which is listed in Article III of these regulations, the representative may issue a citation at that time or not later than 90 days after discovery of the alleged violations. The citation shall be written and shall state with particularity the nature of the violation, including reference to the section, rule, order, or regulation alleged to have been violated, the abatement date, the civil penalty established for the violation, the effective date of the civil penalty, and the right to appeal the citation pursuant to Article V of these regulations. The citation shall be personally delivered or sent by registered mail to the alleged violator.

Not later than 20 days after receipt of the citation, the alleged violator may petition the Macomb County Health Department for an administrative hearing pursuant to Article V of these regulations.

A citation becomes final if a petition for an administrative hearing or review is not received within the time specified in these regulations.

### **B. Payment of Fine**

A civil penalty imposed under these regulations is payable to the Macomb County Health Department for deposit with the general funds of the County of Macomb. A civil penalty may be recovered in a civil action brought in the county in which the violation occurred or the defendant resides.

Payment must be made within 15 days of the date a proposed penalty becomes final. A check or money order shall be payable to the Macomb County Health Department at the address shown on the citation. Checks and money orders should include the citation's identification number and item number(s).

### **C. Correction of Violation:**

Abatement and Notification of Abatement – Items of alleged violation that are not appealed shall be corrected by the abatement date specified for the item in the citation. The person shall notify the Health Department at the address indicated on the face of the citation when compliance with the item has been achieved.

Notification shall be mailed to the Health Department within five (5) days of the abatement date of each item appearing on the face of each citation. All violations (items) when abated are subject to this notification requirement. If an appeal or a request for an extension of time concerning a portion of the violations (items) on the citation is filed, the Health

Department shall still be notified upon compliance with the remaining violations (items) on the citation.

Failure to notify the Macomb County Health Department of abatement, causes the penalty set forth in Article III to continue to accrue.

## ARTICLE V. APPEALS

### **A. Informal Opportunity to Show Compliance:**

1. The Macomb County Health Department may be contacted by telephone at the number indicated on the face of the citation or by visiting the Macomb County Health Department for the purpose of discussing violations noted on the citation and/or an opportunity to show compliance with the regulation in question. This type of information contact shall not be considered an appeal of the citation under Sections B.2 and B.3 of this Article.

2. A person may file a petition for modification of abatement date(s) with the Macomb County Health Department at the address shown on the face of the citation, on an item(s) of a citation which has become a final order of the Health Officer. A person must have made a good faith effort to correct the violation within the abatement date, and has or will not be successful because of factors beyond the person's reasonable control. The petition for modification of abatement date must be filed with the Macomb County Health Department in writing by personal delivery or postmarked no later than one day following the abatement date for which an extension of time is desired.

The petition for modification of abatement date(s) shall include: (a) Steps taken, and the dates of those steps, to achieve compliance during the prescribed abatement period. (b) The specific additional abatement time desired. (c) The reason(s) the additional time is necessary, such as the availability of professional and technical personnel or of materials and equipment, or because necessary construction or alteration of facilities cannot be completed by the original abatement date. (d) Available interim steps being taken to safeguard the public health during the abatement period.

3. Payment of the penalty does not eliminate the requirement of correcting the violation.

4. Abatement of violations on or before the abatement date, and written notification to the department of such abatement, shall end the violation and eliminate any obligation to pay the monetary civil penalty.

5. When, in the judgment of the Health Department Representative, the violation constitutes a substantial hazard to public health, the effective date of the civil penalty may be immediate.

**B. Appeal to the Health Department:**

1. A person who has been issued a citation may appeal to the Macomb County Health Department by delivering or mailing a written request for an administrative hearing to the Health Department. The request must be delivered or postmarked not later than 20 days after receipt of the citation. If a written request for an administrative hearing is not made within the time specified by this Section, the citation shall become final and shall not be subject to further appeal.

2. The request for an administrative hearing shall be signed and shall include:

- a. The name, address and telephone number of the petitioner;
- b. A reference to the citation date and number;
- c. A short statement of the matters in question (such as the existence of a violation or abatement date, etc.).

3. The Health Officer or designee shall hold an administrative hearing within 30 days after receipt of a timely written request for a hearing. The hearing shall be preceded, by at least 10 days, by a notice to the petitioner which shall include:

- a. A statement of the date, time, place and nature of the hearing. Unless otherwise specified in the notice, the hearing shall be held at the principal office of the Macomb County Health Department.
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
- c. A reference to the particular citation involved.
- d. A short plain statement of the issues involved.

4. The hearing shall be conducted in the same manner as other administrative hearings held by the Macomb County Health Department.

After the administrative hearing, the Health Officer may affirm, dismiss or modify the citation. The decision of the Health Officer shall be final, unless within 60 days of the decision of the Health Department, the Macomb County Health Department Hearing Board grants review of the citation as set forth below.

5. The Macomb County Health Department Hearing Board may grant review of a citation upon receipt of a petition, in the form described in Section B.2 of this Article. Should the Macomb County Health Department Hearing Board grant review of the citation, the Hearing Board may affirm, dismiss or modify the decision of the Macomb County Health Department.

## ARTICLE VI. ADOPTION AND EFFECTIVE DATE

A. These regulations are adopted by the Macomb County Health Department on February 12, 1992 and approved by the Macomb County Board of Commissioners on February 20, 1992.

B. These regulations shall become effective on April 6, 1992 (45 days following approval by the Macomb County Board of Commissioners).

C. Date of Public Hearing: October 1, 1991.

D. Effective date as amended: September 1, 2004.

**MACOMB COUNTY HEALTH DEPARTMENT  
REGULATIONS FOR MONETARY CIVIL PENALTIES/CITATIONS  
RELATING TO  
ENVIRONMENTAL HEALTH REGULATIONS FOR THE PROTECTION OF  
FOOD, WATER, LAND AND AIR**

**SCHEDULE OF MONETARY CIVIL PENALTIES  
*EFFECTIVE SEPTEMBER 1, 2004***

<u>Violation</u>	<u>Applicable Statutory Section or Sections of Rules or Regulations</u>	<u>Civil Penalty For Occurrence</u>	<u>Civil Penalty Per Day The Violation Continues</u>
<ul style="list-style-type: none"> <li><b>Onsite Sewage Disposal</b></li> </ul>	Regulations Governing Onsite Disposal Of Sanitary Sewage And Human Excreta In Macomb County, Michigan	\$225	\$225
-Prohibited Sanitary Sewage Disposal Practices/Required Facilities	Article III	\$375	\$375
-Construction of Onsite Sewage Disposal System Without Permit	Article V	\$375	\$375
-Non-Conformance With Location, Design, Materials Or Construction Criteria	Article VI	\$375	\$375
<ul style="list-style-type: none"> <li><b>Public Swimming Pool Program</b></li> </ul>	Part 125, Public Health Code, Act 368, P.A. 1978	\$150	\$150
<ul style="list-style-type: none"> <li><b>Racing And Carrier Pigeons</b></li> </ul>	Macomb County Rules And Regulations Governing The Sport Of Racing And Carrier Pigeons	\$75	\$75
-Failure To Apply For Permit		\$75	\$75

**SCHEDULE OF MONETARY CIVIL PENALTIES (*Continued*)*****EFFECTIVE SEPTEMBER 1, 2004***

Adopted in Accordance with Macomb County Regulations For Monetary Civil Penalties/Citations

<u>Violation</u>	<u>Applicable Statutory Section or Sections of Rules or Regulations</u>	<u>Civil Penalty For Occurrence</u>	<u>Civil Penalty Per Day The Violation Continues</u>
-Violation Of Standards And Operational Procedures	Article V	\$75 – 1 <sup>st</sup> \$115 – 2 <sup>nd</sup> \$150 – 3 <sup>rd</sup> & Subsequent	
• <b>Onsite Water Supply</b>	Regulations Governing Water Supplies in Macomb County	\$225	\$225
-Construction of Water Supply Without Permit	Article V, Section 5.1	\$375	\$375
-Non-Conformance With Construction Code/Criteria	Article IV, Section 4.1	\$375	\$375
• <b>Non-Community Water Supply</b>	Safe Drinking Water Act, Act 399, P.A. 1976	\$225	\$225
-Construction of Water Supply Without Permit		\$500	\$500
-Non-Conformance With Construction Code/Criteria		\$500	\$500
-Failure to Collect Required Monitoring Samples			
Routine		\$500	\$500
Maximum Contaminant Level		\$750	\$750
-Failure to Report Results of Analytical Testing		\$500	\$500

**SCHEDULE OF MONETARY CIVIL PENALTIES (*Continued*)**  
***EFFECTIVE SEPTEMBER 1, 2004***

Adopted in Accordance with Macomb County Regulations For Monetary Civil Penalties/Citations

<u>Violation</u>	<u>Applicable Statutory Section or Sections of Rules or Regulations</u>	<u>Civil Penalty For Occurrence</u>	<u>Civil Penalty Per Day The Violation Continues</u>
-Failure to Post Public Notice During Maximum Contaminant Level or for Failure to Monitor		\$400	\$400
• <b>Onsite Sewage Disposal and Onsite Water Supply System Evaluation and Maintenance</b>	Regulations Governing Onsite Sewage Disposal and Onsite Water Supply System Evaluation and Maintenance	\$225	\$225
-Failure to Obtain Evaluation Prior Transfer	Article III, Section 3.1	\$375	\$375
-Failure of Private Evaluator to Submit Complete Reports Within Time-Frame	Article VI, Section 6.1	\$225	\$225
-Conducting Evaluations Without Being Certified and Registered	Article VIII, Section 8.1	\$375	\$375
-Failure to Complete Corrections Within Time-Frame	Article IX, Section 9.3	\$375	\$375
-Failure to Remediate Failure in Accordance With Requirements	Article IX, Section 9.3	\$375	\$375
-Failure of Owner to Fulfill Established Responsibilities	Article X, Section 10.1	\$225	\$225
-Failure of Registered Evaluator to Fulfill Responsibilities	Article X, Section 10.2	\$225	\$225
• <b>Food Service Sanitation</b>	Act 92, Food Law of 2000	\$375	\$375
-Operation Without a License	Section 4101(1)	\$375	\$375

**SCHEDULE OF MONETARY CIVIL PENALTIES (*Continued*)**  
***EFFECTIVE SEPTEMBER 1, 2004***

Adopted in Accordance with Macomb County Regulations For Monetary Civil Penalties/Citations

<u>Violation</u>	<u>Applicable Statutory Section or Sections of Rules or Regulations</u>	<u>Civil Penalty For Occurrence</u>	<u>Civil Penalty Per Day The Violation Continues</u>
-Construction or Remodeling Without Approved Plans	Section 6101, 6105 and Section 8-201.11 of the Food Code	\$375	\$375
-Operation Without Inspection and Approval	Section 6115 and Section 8.203.10 of the Food Code	\$375	\$375
-Food Protection Inspection Violations		Each Item	
Critical Violation <sup>1</sup>		\$150 – 1 <sup>st</sup> \$300 – 2 <sup>nd</sup> \$450 – 3 <sup>rd</sup> & Subsequent	
Violation		\$75 – 1 <sup>st</sup> \$150 – 2 <sup>nd</sup> \$225 – 3 <sup>rd</sup> & Subsequent	
• <b>Manager Certification Regulation</b>	Regulations Governing Food Safety Training for Food Service Establishments in Macomb County, Michigan	\$150	\$150
-Lack of a Certified Food Service Manager	Section 3.1 (a)	\$150	\$150
-Lack of a Written Food Safety Plan	Section 3.5	\$75	\$75
• <b>Community Right-To-Know</b>	Macomb County Regulation Governing Identification Disclosure and Health Risk Assessment of Toxic Chemicals	\$375	\$375

**SCHEDULE OF MONETARY CIVIL PENALTIES (*Continued*)**  
***EFFECTIVE SEPTEMBER 1, 2004***

Adopted in Accordance with Macomb County Regulations For Monetary Civil Penalties/Citations

<u>Violation</u>	<u>Applicable Statutory Section or Sections of Rules or Regulations</u>	<u>Civil Penalty For Occurrence</u>	<u>Civil Penalty Per Day The Violation Continues</u>
• <b>Public Health Nuisance</b>	Public Health Code		
Class I <sup>2</sup>	MCL333.2455(1)	\$750	\$750
Class II <sup>3</sup>	MCL333.2455(1)	\$750	\$750
Class III	MCL333.2455(1)	\$150	\$150
• <b>General Public Health Violation</b>	Public Health Code, Act 368, P.A. 1978	\$150	\$150

<sup>1</sup> Defined in Act 92 of 2000, Section 1105 (g).

<sup>2</sup> Class I Public Health Nuisance means a condition involving a “toxic chemical” as defined in the Macomb County Regulations Governing Identification Disclosure and Health Risk Assessment of Toxic Chemicals.

<sup>3</sup> Class II Public Health Nuisance means a condition involving “medical waste” as defined in Part 138, Act 368, of P.A. 1978